



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/748,943	12/29/2003	Neil Keegstra	1122-8	7887
23869	7590	01/13/2005	EXAMINER	
HOFFMANN & BARON, LLP 6900 JERICHO TURNPIKE SYOSSET, NY 11791			SEMUNEGUS, LULIT	
			ART UNIT	PAPER NUMBER
			3641	
DATE MAILED: 01/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/748,943

Applicant(s)

KEEGSTRA ET AL.

Examiner

Lulit Semunegus

Art Unit

3641

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Applicant has overcome previously objected claim 7 by amending the claim.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "conventional" is indefinite. The meets and bounds of this term is unknown.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Tougeron et al (5,565,649). Tougeron teaches a less-lethal shot gun round comprising: a generally elongate tubular hull (3) having a forward end and an opposed rearward end

Art Unit: 3641

(fig. 1); a base (4) enclosing said rearward end of said hull; a propellant (17) contained within said base; and a projectile slug (2, 62) carried in said hull, said slug being a generally cylindrical member having an outer cylindrical wall, said slug further including a head/protruding member, surrounded by a rim (65), at a forward end of said cylindrical member (col. 2, line 49) thereby increasing the weight of said slug at said forward end; said slug being formed of a non-metallic material (col.2, lines 63-65) inherently having a durometer hardness less than conventional (metal) shot gun slug materials.

6. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Stevens (5,361,701). Stevens teaches a less-lethal shot gun round comprising: a generally elongate tubular hull (22) having a forward end and an opposed rearward end; a base (24) enclosing said rearward end of said hull; a propellant (32) contained within said base; a wad (34) sealably positioned in said hull adjacent said rearward end; and a projectile slug (36) carried in said hull, said slug being a generally cylindrical member having an outer cylindrical wall, said slug further including a head/protruding member (figures 2-4) at a forward end of said cylindrical member thereby increasing the weight of said slug at said forward end; said slug being formed of a non-metallic material (col. 3, lines 20-21) inherently will have a durometer hardness less than conventional (metal) shot gun slug materials and includes a sabot (58) positioned between said wad and said slug.

7. Claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Knoster, Jr. (6,067,909). Knoster teaches a projectile (16) having a generally hollow cylindrical body (12) having forward end including said protruding member extending

Art Unit: 3641

therefrom (36) which is dome shaped (fig. 2); a body being formed of a non-metallic material (fig. 7's cross-section showing section for synthetic resin or plastic according to Title 37) having inherently a durometer hardness less than conventional metallic rounds; a base (30) enclosing said rearward end; a propellant (50) contained within said base; a wad (32) sealably positioned in rear end; and a projectile slug (16), said slug being a generally cylindrical member having an outer cylindrical wall, said slug further including a head/protruding member (figures 1-5) at a forward end of said cylindrical member thereby increasing the weight of said slug at said forward end; and includes a sabot (12) positioned between said wad and said slug.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tougeron et al (5,565,649) in view of Gibson et al (6,615,739). Tougeron teach all the limitations of claim 9 except the cylindrical wall is dimpled. Gibson et al teaches a slug with hollow cylindrical bore extending from the rearward end (fig. 1b) where the outer cylindrical wall is dimpled (fig.8a). At the time of the invention, it would have been obvious to one ordinarily skilled in the art to have a dimpled cylindrical wall to promote accuracy and/or distance of the projectile/slug.

Art Unit: 3641

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lulit Semunegus whose telephone number is (703) 306-5960. The examiner can normally be reached on Mon-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone can be reached on (703) 306-4198. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

12/29/04

Lulit Semunegus
Examiner
Art Unit 3641



MICHAEL J. CARONE
SUPERVISORY PATENT EXAMINER